THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17271 of 1995

12.12.2006

Between:

M/s.Yamuna Digital Electronics Private Limited,
Banjara Hills, Hyderabad, through its Director,
M.Lakshminarasaiah, S/o.M.Ramaiah

… Petitioner

AND

The Secretary to Government of Andhra Pradesh,
Municipal Administration Department, Secretariat, Hyderabad
And others

… Respondent

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ORDER:

The petitioner company is allegedly in occupation of premises on Road No.1 of Banjara Hills, Hyderabad. The second respondent-Municipal Corporation of Hyderabad (MCH), served a notice on 29.3.1982 informing the petitioner that an extent of 150.49 Sq.yards of the petitioner's property is coming within the affected portion of road widening and the petitioner was requested to handover possession of the property. The petitioner allegedly did not give any consent but without due process respondents 2 to 5 allegedly demolished compound wall on 13.9.1983 and road widening work was completed. The petitioner alleges that the respondents promised that they will initiate proceedings under the Land Acquisition Act, 1894 (the Act, for brevity) but they did not do so in spite of number of representations. The petitioner alleges that the market value in the area is Rs.10,000/- per Sq.yard. The petitioner seeks a writ of Mandamus directing the respondents to make payment immediately towards compensation basing on the book value maintained for the purpose of registration.

A counter affidavit is filed by the fourth respondent, namely, the Assistant City Planner, MCH. It is stated that when the road widening work on Road No.1, Banjara Hills, was taken up, a portion of the petitioner's property admeasuring 150.49 Sq.yards was affected under such widening. Therefore, by notice/letter dated 27.3.1982, the petitioner was requested to give consent and handover the portion affected under road widening. The petitioner after persuasion agreed to give affected portion for road widening, as was the case with owners of the other properties. Therefore, the MCH reconstructed the

compound wall after taking over affected portion and as the petitioner surrendered the land, conditional building permission was granted to the petitioner, as requested by him. The petitioner addressed a letter dated 13.9.1994 seeking compensation. The MCH then addressed a letter on 31.10.1994 asking the petitioner to resubmit sanctioned plan for verification. He did not do so and filed the present writ petition. The writ petition is also opposed on the ground of delay and laches. All other allegations made in the writ affidavit are denied.

A reply affidavit is filed asserting that consent was not given and that the petitioner however did not object for acquisition of land as the respondents promised to initiate action under the Act.

Learned Counsel for the petitioner submits that the petitioner parted with the valuable land admeasuring about 150 Sq.yards believing the promise made by the MCH that adequate compensation will be paid and, therefore, the MCH cannot turnaround and escape from the liability. It is refuted by the learned Standing Counsel for MCH.

It is the case of the MCH that the petitioner asked for more Floor Space Index (FSI) on construction of building and on condition of such grant, the petitioner parted with the land. When the petitioner submitted plan for additional FSI, he was asked to produce the original sanction plan but he failed to do so. Learned Standing Counsel submits that even before the road widening work was taken up, petitioner constructed more FSI than permissible, in violation of the original building plan, and that is the reason why he failed to submit the original plan. In paragraph 5 of the counter affidavit filed by fourth respondent a reference is made to the request made by the MCH for submission of sanction plan. From this, an inference can be drawn that when the petitioner failed to get additional FSI at the time of new construction, as an afterthought he filed the present writ petition. According to the petitioner, market value in the area would be Rs.10,000/- per Sq.yard. The petitioner did not object at the time of taking over the land by MCH for road widening in September 1983. He kept quiet for about 12 years and when the land in the area became costly, he approached this Court claiming compensation. The claim made by the petitioner is barred by delay and laches and no attempt is made to explain the same.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

December 12, 2006.

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